

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2
3 In the Matter of the Mortgage Banker License of:

No. 09F-BD062-BNK

4 **J & R LENDING, INC. AND CATHERINE**
5 **ZEBARTH**

6 8277 East San Salvador Drive
 Scottsdale, AZ 85258

**SUPERINTENDENT'S FINAL
DECISION AND SUSPENSION
ORDER**

 Respondent.

7 The Superintendent of Financial Institutions (the "Superintendent") having reviewed the
8 record in this matter, including the Administrative Law Judge Decision attached and incorporated
9 herein by this reference, adopts the Administrative Law Judge's Findings of Fact, Conclusions of
10 Law and Recommended Order as follows:

11 **ORDER**

12 IT IS ORDERED that Respondent's Mortgage Banker License Number BK 0906885 is
13 suspended until disposition of Ms. Zebarth's federal criminal charges.

14 **NOTICE**

15 The parties are advised that this Order becomes effective immediately and the provisions of
16 this Order shall remain effective and enforceable except to the extent that, and until such time as,
17 any provision of this Order shall have been modified, terminated, suspended, or set aside by the
18 Superintendent or a court of competent jurisdiction

19 DATED this 12th day of June, 2009.

20 

21 Felecia Rotellini
22 Superintendent of Financial Institutions

23 ORIGINAL filed this 12th day of
24 June, 2009 in the office of:

25 Felecia Rotellini
26 Superintendent of Financial Institutions
27 Arizona Department of Financial Institutions
28 ATTN: June Beckwith
 2910 North 44th Street, Suite 310

1 Phoenix, Arizona 85018

2 COPY of the foregoing mailed/hand delivered
3 This same date to:

4 Brian Brendan Tully, Administrative Law Judge
5 Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, AZ 85007

6 Erin O. Gallagher, Assistant Attorney General
7 Office of the Attorney General
1275 West Washington
8 Phoenix, AZ 85007

9 Robert Charlton, Assistant Superintendent
Richard Fergus, Senior Examiner
10 Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
11 Phoenix, AZ 85018

12 AND COPY MAILED SAME DATE by
Certified Mail, Return Receipt Requested, to:

13 J & R Lending
14 Attn: Catherine Zebarth, Responsible Individual
8277 E. San Salvador Drive
15 Scottsdale, AZ 85258

16 J & R Lending
17 Attn: Sarah Mitchell
1700 W. Burbank Blvd.
18 Burbank, CA 91406

19 Catherine Zebarth, Statutory Agent for:
20 J & R Lending, Inc.
6773 N. 79th Place
21 Scottsdale, AZ 85250

22 BY: *Susan Lingo*

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In The Matter Of The Mortgage Banker
License Of:

No. 09F-BD062-BNK

J & R LENDING, INC. AND
CATHERINE ZEBARTH
8277 East San Salvador Drive
Scottsdale, AZ 85258

ADMINISTRATIVE LAW JUDGE
DECISION

HEARING: May 7, 2009.

APPEARANCES: The Arizona Department of Financial Institutions was represented by Assistant Attorney General Erin O. Gallagher. Neither J & R Lending, Inc. nor Catherine Zebarth appeared.

ADMINISTRATIVE LAW JUDGE: Brian Brendan Tully

Based upon the evidence of record, the Administrative Law Judge makes the following Findings of Fact, Conclusions of Law, and Recommended Order:

FINDINGS OF FACT

1. The Arizona Department of Financial Institutions ("Department") is the authority for licensing and regulating mortgage bankers in the State of Arizona.
2. J & R Lending, Inc. ("J & R") is a California corporation authorized to transact business in Arizona as the holder of mortgage banker license number BK 0906885 issued by the Department.
3. Catherine Zebarth is the Responsible Individual and an employee of J & R. Ms. Zebarth is authorized to transact business in Arizona as a mortgage banker.

- 1 4. On March 6, 2008, the Department received a Mortgage Banker Renewal
2 Application from J & R for License Year 04/01/2008 to 03/31/2009. The renewal
3 application lists J & R's corporate address as 1700 W. Burbank Blvd., Burbank,
4 California. Paragraph 4 of the renewal application lists Ms. Zebarth as J & R's
5 Arizona Responsible Individual. Her address is listed as 8277 E. San Salvador,
6 Scottsdale, Arizona.
- 7 5. On July 18, 2008, the Department received a second Mortgage Banker Renewal
8 Application from J & R for License Year 04/01/2008 to 03/31/2009. Ms. Zebarth
9 is listed as J & R's Arizona Responsible Individual.
- 10 6. On September 24, 2008, the Department received a Mortgage Broker License
11 Renewal Application from Smart Mortgage, Inc. ("Smart"), the holder of mortgage
12 broker license number MB 0905498 issued by the Department.
- 13 7. Smart's renewal application lists Ms. Zebarth as its president, Responsible
14 Individual, and 45% owner. Yo-Yi Ni is listed as Smart's senior vice president
15 and 55% owner.
- 16 8. Paragraph 9 of Smart's renewal application disclosed that Ms. Zebarth was also
17 J & R's Responsible Individual.
- 18 9. Paragraph 13(A) (2) of Smart's renewal application disclosed that a principal had
19 been charged with a felony. Upon investigation, the Department discovered that
20 Ms. Zebarth had been charged with felonies.
- 21 10. On or about June 17, 2008, the Federal Grand Jury for the U. S. District Court
22 for the District of Arizona issued an Indictment charging Ms. Zebarth and others
23 with 18 felony counts pertaining to a "cash back" scheme. The Indictment
24 charged Ms. Zebarth with the following crimes: 18 U.S.C § 1343 (Wire Fraud)
25 Counts 1-6; 18 U.S.C. § 1349 (Conspiracy) Count 7; 18 U.S.C. § 1957 (Money
26 Laundering) Counts 8-17; 18 U.S.C. § 1956(h) (Conspiracy to Commit Money
27 Laundering) Count 18; 18 U.S.C. § 2 (Aid and Abet) Counts 1-8; and numerous
28 Forfeiture Allegations.
- 29 11. Page 8 of the Indictment alleges the following:
30 AZADEGAN hired ZEBARTH to create residential mortgage loan
applications containing false information, including rental history,

1 occupancy status, employment and wages, and assets and
2 liabilities. ZEBARTH did this for at least four of the properties
3 purchased by BABETI and at least two of the properties purchased
4 by BUNEA. ZEBARTH submitted the false applications through her
5 company, Smart Mortgage LLC, to various lending institutions.

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12. The alleged criminal conduct by Ms. Zebarth occurred while she was an
13 employee of J & R.
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13. The Department issued an Order of Summary Suspension and Notice of
Hearing against J & R and Ms. Zebarth, which was effective on March 31, 2009.
The Department found that Ms. Zebarth's pending criminal case required
emergency action pursuant to A.R.S. §§ 6-945(B) and (C) and 41-1092.11(B).

CONCLUSIONS OF LAW

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1. The Department has jurisdiction over J & R and Ms. Zebarth.
2. Pursuant to A.R.S. § 41-1092.07(G)(1) and A.A.C. R2-19-119(B), the
Department has the burden of proof in this matter. The standard of proof is
preponderance of the evidence. A.A.C. R2-19-119(A).
3. Pursuant to A.R.S. § 6-943(F), Ms. Zebarth was an employee of J & R during
the period of her alleged criminal activities.
4. Pursuant to A.R.S. § 6-945(B), the Department is authorized to suspend the
license issued to J & R and Ms. Zebarth, including any renewal of the license,
"pending [Ms. Zebarth's] trial on the indictment."
5. Pursuant to A.R.S. § 6-945(C), the alleged criminal acts by Ms. Zebarth affect
her employer J & R.
6. The above Findings of Fact supports the Department's summary suspension of
mortgage banker license number BK 0906885 necessary to protect the public
health safety or welfare, pursuant to A.R.S. §§ 6-945(B) and (C) and 41-
1092.11(B).

RECOMMENDED ORDER

IT IS ORDERED that the Department's summary suspension of mortgage
banker's license number BK 0906885 be upheld and affirmed.

1 IT IS FURTHER ORDERED that mortgage banker's license number BK
2 0906885 remain suspended until the disposition of Ms. Zebarth's federal criminal
3 charges.

4 Done this day, May 26, 2009

5 
6 Brian Brendan Tully
7 Administrative Law Judge
8

9
10 Original transmitted by mail this
11 27 day of May, 2009, to:
12

13 Felecia A. Rotellini, Superintendent
14 Arizona Department of Financial Institutions
15 ATTN: Susan Longo
16 2910 N. 44th Street, Suite 310
17 Phoenix, AZ 85018

18 By 
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